

**JUANITA J. BARNER**  
**ATTORNEY AT LAW**

2512 SOUTHMORE, SUITE A  
HOUSTON, TEXAS, 77004

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PHONE (713)942-9430  
FAX (713)942-0591

November 28, 2000

**Via Certified Mail**  
**RR # 7000 0520 0017 4805 3233**

Mr. Joe Shields  
16822 Stardale Lane  
Friendswood, TX 77546

**Re: New Age Satellite and Security**

Dear Mr. Shields:

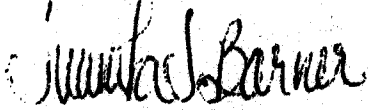
I represent Mr. Robert Robinson and New Age Satellite and Security. I am writing in response to your letters dated June 9, 2000 and October 15, 2000 in which you threaten to file suit against New Age Systems for allegedly violating the Telephone Consumer Protection Act. **This letter serves as notice to cease and desist your attempt to elicit money from New Age Satellite and Security, Robert Robinson, or any other company using telephone solicitation in the State of Texas.**

Although I applaud your attempt to interpret the law in your favor, I strongly suggest that in the future when you attempt to interpret the law, you read the entire statute and the corresponding state law. 47 USCA §227(e)(1) specifically states that nothing in the federal statute shall preempt state law. Therefore, since Texas does have a state law that gives the guidelines for telephone solicitation, the state law governs. Texas Business & Commerce Code Chapters 37 and 38 specifically address telephone solicitation and none of the actions of New Age Systems is in violation of Texas law. ( Copy enclosed).

After contacting the Office of the Attorney General, we are aware that you have also filed similar complaints against over 20 companies. Attempting to make money off others lack of knowledge of the law is theft by deception and a violation of the Texas Penal Code § 31.01 et.al. ( Copy enclosed). Be advised that we have contacted the Harris County District Attorney-Consumer Fraud Division. Although Assistant District Attorney Russell Turbeville was very interested in your actions, he has currently decided not to pursue criminal actions against you because it may be difficult to prove that you knew that your impression of the law was false.

Therefore, in the event that you continue to attempt to coerce money from business owners, this letter serve as proof that you are aware that any similar future behavior is done with knowledge and intent. **Be aware that any future complaints regarding your actions may result in criminal charges.**

Sincerely,

A handwritten signature in cursive script, appearing to read "Juanita J. Barner".

Juanita J. Barner

Encl.(2)

cc: Robert Robinson

Office of the Attorney General- Consumer Protection Division

Harris County District Attorney- Consumer Fraud Division

JOE SHIELDS

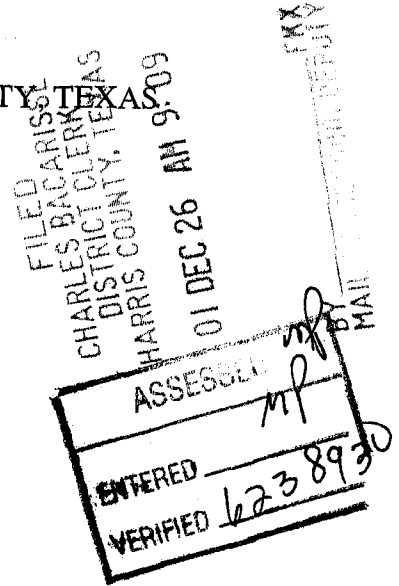
VS.

KENNITH DALE HENSLEY AND  
RICHARD DEAN JONES, INDIVIDUALLY  
AND D/B/A ALL STAR COMMUNICATIONS  
OF TEXAS; JIMMY RAY LETULLE,  
KENNITH DALE HENSLEY, AND  
RICHARD DEAN JONES, INDIVIDUALLY  
AND D/B/A ALL STAR COMMUNICATIONS;  
TEXAS TELEMARKETING, INC.;  
VERONICA LEE GARAY AND JOE ANTHONY  
FERNANDEZ, INDIVIDUALLY AND D/B/A  
DIGITECH DSS; DISH TV, INC.; ALL  
AMERICAN ALARMS, INC.;  
SOUTHWEST DISH, INC.; NEW AGE  
SATELLITE AND SECURITY COMPANY;  
RICHARD ORTIZ and MICHAEL PATRICK  
SULLIVAN, INDIVIDUALLY AND D/B/A  
NBE MARKETING and D/B/A TRI-STAR  
MARKETING NETWORK; STAR-SAT OF  
HOUSTON, INC.; DIRECTV, INC.,  
AND ECHOSTAR TECHNOLOGIES  
CORPORATION D/B/A ECHOSTAR

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

280th JUDICIAL DISTRICT



**PLAINTIFF'S SECOND AMENDED ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES JOE SHIELDS, hereinafter called Plaintiff, complaining of KENNITH DALE HENSLEY AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS OF TEXAS; JIMMY RAY LETULLE, KENNITH DALE HENSLEY, AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS; TEXAS TELEMARKETING, INC.; VERONICA LEE GARAY AND JOE ANTHONY FERNANDEZ, INDIVIDUALLY AND D/B/A DIGITECH DSS; DISH TV, INC.; ALL AMERICAN ALARMS, INC.; SOUTHWEST DISH, INC.; NEW AGE SATELLITE AND SECURITY COMPANY; RICHARD ORTIZ and MICHAEL PATRICK SULLIVAN, INDIVIDUALLY AND D/B/A NBE MARKETING and D/B/A TRI-STAR

MARKETING NETWORK; STAR-SAT OF HOUSTON, INC.; DIRECTV, INC., AND ECHOSTAR SATELLITE CORPORATION, hereinafter called Defendants, and for cause of action would respectfully show the Court as follows:

1. This case is filed as a level II case.
2. Plaintiff is an individual and a resident of Galveston County, Texas.

Defendants, KENNITH DALE HENSLEY AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS OF TEXAS, are individuals. Kenneth Dale Hensley may be served by process at his residence at 5619 Commodore, Dickinson, Galveston County, Texas. Richard Dean Jones may be served at his residence at 115 Newport Boulevard, League City, Galveston County, Texas.

Defendants, JIMMY RAY LETULLE, KENNITH DALE HENSLEY, AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS, are individuals and residents of Galveston and Harris counties, Texas. Kenneth Dale Hensley may be served with process at his residence at 5619 Commodore, Dickinson, Galveston County, Texas. Richard Dean Jones may be served at his residence at 115 Newport Boulevard, League City, Galveston County, Texas. Jimmy Ray LeTulle is an individual and service of process may be had upon him at his residence at 10212 Missel Thrush, Austin, Travis County, Texas.

(Kennith Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; and Jimmy Ray LeTulle, Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications, are hereinafter called "All Star Communications.")

According to the records of the Secretary of State of the State of Texas, Defendant Texas Telemarketing, Inc. is a corporation organized and existing pursuant to the laws of the State of Texas, and the records of the Secretary of State of the State of Texas reflect that its registered agent for service is John McCormick,; such records further reflect that the address of the registered agent is 3222 Spencer Highway, Pasadena, Harris County, Texas.

The Constable of Harris County, Texas, has attempted to serve the said Texas Telemarketing, Inc. by serving its registered agent for service at such address. However, upon inquiry, the Constable determined that the said registered agent no longer is at such address, as noted on the unexecuted return by the Constable on file with this Court. In fact, as noted by the Constable, the said registered agent is deceased.

Under the terms and provisions of Article 2.11(B) of the Texas Business Corporation Act, whenever a registered agent of a corporation cannot with reasonable diligence be found at the registered office, the Secretary of State of the State of Texas shall be the agent of such corporation upon whom any service of process may be served.

Veronica Lee Garay and Joe Anthony Fernandez, Individually and d/b/a DIGITECH DSS are individuals. Service of process may be had upon them at their residence at 7607 Buena Vista, Houston, Harris County, Texas, or at their place of business at 11007 Fuqua, Houston, Harris County, Texas.

Dish TV, Inc., is a corporation organized and existing pursuant to the laws of the State of Texas. Service of process may be had upon it by serving its registered agent for service, James M. Jugon, at 15310 Aldine-Westfield, Houston, Harris County, Texas.

According to the records of the Secretary of State of the State of Texas, Defendant Southwest Dish, Inc. is a corporation organized and existing pursuant to the laws of the State of Texas, and the records of the Secretary of State of the State of Texas reflect that its registered agent for service is Kenneth Black,; such records further reflect that the address of the registered agent is 8181 Commerce, Houston, Harris County, Texas.

The Constable of Harris County, Texas, has attempted to serve the said Texas Telemarketing, Inc. by serving its registered agent for service at such address. However, upon inquiry, the Constable determined that there is no such address, as noted on the unexecuted return by the Constable on file with this Court.

Under the terms and provisions of Article 2.11(B) of the Texas Business Corporation Act, whenever a registered agent of a corporation cannot with reasonable diligence be found at the registered office, the Secretary of State of the State of Texas shall be the agent of such corporation upon whom any service of process may be served.

Defendant New Age Satellite and Security Company is a corporation organized and existing pursuant to the laws of the State of Texas. Service of process may be had upon it by serving its registered agent for service, Robert Robinson, at 8222 Antonie, Suite 100, Houston, Harris County, Texas.

Defendant RICHARD ORTIZ and MICHAEL PATRICK SULLIVAN, INDIVIDUALLY AND D/B/A NBE MARKETING and D/B/A TRI-STAR MARKETING NETWORK, is an individual. Service of process may be had upon him by serving him at his place of business, 6234 Sunny Gate, Spring, Harris County, Texas or at 505 North Sam Houston Parkway East, Houston, Harris County, Texas.

Defendant STAR-SAT OF HOUSTON, INC., is a corporation organized and existing pursuant to the laws of the State of Texas. Service of process may be had upon it by serving its registered agent for service, Kenneth N. Everett, Jr., 517 North 12th Street, LaPorte, Harris County, Texas.

Defendant ECHOSTAR SATELLITE CORPORATION is a corporation organized and existing pursuant to the laws of the State of Colorado. Service of process may be had upon it by serving its registered agent for service, CT Corporation System, at 350 North St. Paul Street, Dallas, Dallas County, Texas.

Defendant DIRECTV, INC. is a corporation organized and existing under the laws of the State of Texas. Service of process may be had upon it by serving its registered agent for service, CT Corporation System, at 350 North St. Paul Street, Dallas, Dallas County, Texas.

Defendant ALL AMERICAN ALARMS, INC., is a corporation organized and existing under the laws of the State of Texas. Service of process may be had upon it by serving its

registered agent for service, ROMA F. HALEY, at 1408 East North Belt, #130, Houston, Harris County, Texas.

3. This is a suit brought pursuant to the provisions of the Telephone Consumers Protection Act (hereinafter TCPA), 47 U.S.C. §227 and Section 35.47 of the Texas Business and Commerce Code.

4. The telephone numbers at Plaintiff's residence is 281-482-7603 and 281-992-6276 and 281-992-1165. Such numbers were assigned to plaintiff by the telephone company servicing such residence.

#### COUNT 1

5. On October 21, 1999, at or about 7:54 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant All Star Communications. The telephone number identified as the source of the telephone solicitation was 281-474-1168. This telephone number is an internal telephone number of the defendant All Star Communications. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant All Star Communications, nor did Plaintiff have a prior relationship with the business represented by said Defendant, DIRECTV, Inc. (hereinafter "DIRECTV"), nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

6. The actions of the Defendant All Star Communications described in this Count were done willfully or knowingly.

#### COUNT 2

7. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

8. The actions of the Defendant All Star Communications described in this Count were done willfully or knowingly.

#### COUNT 3

9. Plaintiff requested that defendant All Star Communications place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant All Star Communications furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

10. Defendant All Star Communications, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant All Star Communications has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

11. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 4

12. On March 15, 2000, at or about 2:20 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant Texas Telemarketing, Inc. (hereinafter called "TTI"). The telephone number identified as the source of the telephone solicitation was 713-946-5326. This telephone number is an internal telephone number of the defendant TTI. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g)



of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant TTI, nor did Plaintiff have a prior relationship with the business represented by said Defendant, DIRECTV, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

13. The actions of the Defendant TTI described in this Count were done willfully or knowingly.

#### COUNT 5

14. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

The actions of the Defendant TTI described in this Count were done willfully or knowingly.

#### COUNT 6

15. Plaintiff requested that defendant TTI place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant TTI furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

16. Defendant TTI, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

17. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 7

18. On April 12, 2000, at or about 10:18 o'clock a.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant DIGITECH DSS. The telephone number identified as the source of the telephone solicitation was 713-378-4147. This telephone number is an internal telephone number of the defendant DIGITECH DSS (hereinafter called "Digitech"). Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant Digitech, nor did Plaintiff have a prior relationship with the business represented by said Defendant, ECHOSTAR SATELLITE CORPORATION (hereinafter called "ECHOSTAR"), nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

19. The actions of the Defendant Digitech described in this Count were done willfully or knowingly.

#### COUNT 8

20. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

21. The actions of the Defendant Digitech described in this Count were done willfully or knowingly.

#### COUNT 9

22. Plaintiff requested that defendant Digitech place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant Digitech furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

23. Defendant Digitech, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant Digitech has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

24. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 10

25. On May 2, 2000, at or about 3:32 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant Dish TV, Inc. (hereinafter called "Dish TV"). The telephone number identified as the source of the telephone solicitation was 281-590-6848. This telephone number is an internal telephone number of the defendant Dish TV. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant Dish TV, nor did Plaintiff have a prior relationship with the business represented by Defendant Dish TV, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

26. The actions of the Defendant Dish TV described in this Count were done willfully or knowingly.

#### COUNT 11

27. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

28. The actions of the Defendant Dish TV described in this Count were done willfully or knowingly.

#### COUNT 12

29. Plaintiff requested that defendant Dish TV place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant Dish TV furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

30. Defendant Dish TV, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant Dish TV has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

31. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 13

32. On May 19, 2000, at or about 2:44 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant TTI. The telephone number identified as the source of the telephone solicitation was 713-425-0185. This telephone number is an internal telephone number of the defendant TTI. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant TTI, nor did Plaintiff have a prior relationship with the business represented by Defendant, DIRECTV and Dish, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

33. The actions of the Defendant TTI described in this Count were done willfully or knowingly.

#### COUNT 14

34. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

35. The actions of the Defendant TTI described in this Count were done willfully or knowingly.

#### COUNT 15

36. Plaintiff requested that defendant TTI place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant TTI furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

37. Defendant TTI, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant TTI has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

38. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 16

39. On June 5, 2000, at or about 3:01 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant Southwest Dish, Inc.

(hereinafter called "SW Dish"). The telephone number identified as the source of the telephone solicitation was 713-995-6069. This telephone number is an internal telephone number of the defendant SW Dish. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant SW Dish, nor did Plaintiff have a prior relationship with the business represented by Defendant SW Dish, Echostar, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

40. The actions of the Defendant SW Dish described in this Count were done willfully or knowingly.

#### COUNT 17

41. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

42. The actions of the Defendant SW Dish described in this Count were done willfully or knowingly.

#### COUNT 18

43. Plaintiff requested that defendant SW Dish place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant SW Dish furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

44. Defendant SW Dish, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a

“Do Not Call” list. Thus, Defendant SW Dish has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

45. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 19

46. On June 8, 2000, at or about 1:15 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant New Age Satellite and Security Company (hereinafter called “New Age”). The telephone number identified as the source of the telephone solicitation was 281-999-1626. This telephone number is an internal telephone number of the defendant New Age. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant New Age, nor did Plaintiff have a prior relationship with the business represented by Defendant NEW AGE, DIRECTV, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff’s residential telephone line.

47. The actions of the Defendant New Age described in this Count were done willfully or knowingly.

#### COUNT 20

48. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

49. The actions of the Defendant New Age described in this Count were done willfully or knowingly.

#### COUNT 21

50. Plaintiff requested that defendant New Age place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that said defendant furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

51. Defendant New Age, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant New Age has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

52. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 22

53. On June 9, 2000, at or about 12:06 o'clock p.m., plaintiff received a telephone solicitation initiated by Defendant Dish TV. The telephone number identified as the source of the telephone solicitation was 281-590-1790. This telephone number is an internal telephone number of the defendant Dish TV. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant Dish TV, nor did Plaintiff have a prior relationship with the business represented by Defendant Dish TV, Echostar, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

54. The actions of the Defendant Dish TV described in this Count were done willfully or knowingly.

#### COUNT 23

55. The telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone



solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

56. The actions of the Defendant Dish TV described in this Count were done willfully or knowingly.

#### COUNT 24

57. Plaintiff requested that defendant Dish TV place Plaintiff's telephone number on said defendant's "Do Not Call" list; Plaintiff further demanded that said defendant furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

58. Defendant Dish TV, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

59. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 25

60. On June 9, 2000, at or about 12:06 o'clock p.m., plaintiff received a telephone solicitation initiated by Defendant Dish TV. The telephone number identified as the source of the telephone solicitation was 281-590-1698. This telephone number is an internal telephone number of the defendant Dish TV. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant Dish TV, nor did Plaintiff have a prior relationship with the business represented by Defendant Dish TV, Echostar, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

61. The actions of the Defendant Dish TV described in this Count were done willfully or knowingly.

#### COUNT 26

62. The telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

63. The actions of the Defendant Dish TV described in this Count were done willfully or knowingly.

#### COUNT 27

64. Plaintiff requested that defendant Dish TV place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

65. Defendant Dish TV, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

66. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 28

67. On June 13, 2000 at or about 5:32 o'clock p.m., plaintiff received a telephone solicitation initiated by Defendant New Age. The telephone number identified as the source of the telephone solicitation was 281-591-6178. This telephone number is an internal telephone number of the defendant New Age. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant New Age, nor did Plaintiff have a prior relationship with the

business represented by Defendant New Age, DIRECTV, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

68. The actions of the Defendant New Age described in this Count were done willfully or knowingly.

#### COUNT 29

69. The telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

70. The actions of the Defendant New Age described in this Count were done willfully or knowingly.

#### COUNT 30

71. Plaintiff requested that defendant New Age place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant New Age furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

72. Defendant New Age, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

73. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 31

74. On October 13, 2000, at or about 2:23 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation identified as Defendant Richard Ortiz and Michael Patrick Sullivan, individually and d/b/a NBE Marketing and d/b/a Tri-Star Marketing Network (hereinafter called "Tri-Star") recorded voice telephone solicitation initiated by Defendant Richard Ortiz, individually and d/b/a Tri-Star Marketing Network (hereinafter called "Tri-Star"). The telephone number identified as the source of the telephone solicitation was 281-919-0109. This telephone number is an internal telephone number of the defendant Tri-Star. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant Tri-Star, nor did Plaintiff have a prior relationship with the businesses represented by Defendant Star-Sat of Houston, Inc. (hereinafter called "Star-Sat"), DIRECTV and Echostar, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

75. The actions of the Defendant Tri-Star described in this Count were done willfully or knowingly.

#### COUNT 32

76. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

77. The actions of the Defendant Tri-Star described in this Count were done willfully or knowingly.

#### COUNT 33

78. Plaintiff requested that defendant Tri-Star place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant Tri-Star furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

79. Defendant Tri-Star, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

80. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 34

81. On October 14, 2000, at or about 12:23 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant Tri-Star. The telephone number identified as the source of the telephone solicitation was 281-919-0059. This telephone number is an internal telephone number of the defendant Tri-Star. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant Tri-Star, nor did Plaintiff have a prior relationship with the businesses represented by Defendant Star-Sat, DIRECTV and Echostar, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

82. The actions of the Defendant Tri-Star described in this Count were done willfully or knowingly.

#### COUNT 35

83. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by

the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

84. The actions of the Defendant described in this Count were done willfully or knowingly.

#### COUNT 36

85. Plaintiff requested that defendant Tri-Star place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant Tri-Star furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

86. Defendant Tri-Star, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant Tri-Star has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

87. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 37

88. On October 14, 2000, at or about 1:41 o'clock p.m., plaintiff received a telephone solicitation initiated by Defendant Tri-Star. The telephone number identified as the source of the telephone solicitation was 281-362-8837. This telephone number is a telephone number of Don Petulla, an employee of the defendant Tri-Star. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant Tri-Star, nor did Plaintiff have a prior relationship with the business represented by Defendant, DIRECTV and Echostar, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

89. The actions of the Defendant Tri-Star described in this Count were done willfully or knowingly.

#### COUNT 38

90. The telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

91. The actions of the Defendant Tri-Star described in this Count were done willfully or knowingly.

#### COUNT 39

92. Plaintiff requested that defendant Tri-Star place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

93. Defendant Tri-Star, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant Tri-Star has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

94. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 40

95. On October 15, 2000, at or about 12:58 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant New Age. The telephone number identified as the source of the telephone solicitation was 281-272-8799. This telephone number is an internal telephone number of the defendant New Age. Such solicitation

is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant, nor did Plaintiff have a prior relationship with the business represented by Defendant New Age, DIRECTV, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

96. The actions of the Defendant New Age described in this Count were done willfully or knowingly.

#### COUNT 41

97. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

98. The actions of the Defendant New Age described in this Count were done willfully or knowingly.

#### COUNT 42

99. Plaintiff requested that defendant New Age place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant New Age furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

100. Defendant New Age, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant New Age has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.



101. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 43

102. On October 16, 2000, at or about 11:26 o'clock a.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant Tri-Star. The telephone number identified as the source of the telephone solicitation was 281-919-0111. This telephone number is an internal telephone number of the defendant Tri-Star. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant, nor did Plaintiff have a prior relationship with the businesses represented by Defendant Star-Sat, DIRECTV and Echostar, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

103. The actions of the Defendant Tri-Star described in this Count were done willfully or knowingly.

#### COUNT 44

104. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

105. The actions of the Defendant Tri-Star described in this Count were done willfully or knowingly.

COUNT 45

106. Plaintiff requested that defendant Tri-Star place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant Tri-Star furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

107. Defendant Tri-Star, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant Tri-Star has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

108. The actions of the defendant described in this Count were done knowingly or willfully.

COUNT 46

109. On October 16, 2000, at or about 5:00 o'clock p.m., plaintiff received a telephone solicitation initiated by Defendant New Age. The telephone number identified as the source of the telephone solicitation was 281-260-6620. This telephone number is an internal telephone number of the defendant New Age. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant, nor did Plaintiff have a prior relationship with the business represented by Defendant New Age, DIRECTV, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

110. The actions of the Defendant New Age described in this Count were done willfully or knowingly.

COUNT 47

111. The telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

112. The actions of the Defendant New Age described in this Count were done willfully or knowingly.

#### COUNT 48

113. Plaintiff requested that defendant New Age place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant New Age furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

114. Defendant New Age, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

115. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 49

116. On October 16, 2000, at or about 5:50 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant Tri-Star. The telephone number identified as the source of the telephone solicitation was 281-919-0113. This telephone number is an internal telephone number of the defendant Tri-Star. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant, nor did Plaintiff have a prior relationship with the businesses represented by Defendant Tri-Star, DIRECTV and Echostar, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

117. The actions of the Defendant Tri-Star described in this Count were done willfully or knowingly.

#### COUNT 50

118. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

119. The actions of the Defendant Tri-Star described in this Count were done willfully or knowingly.

#### COUNT 51

120. Plaintiff requested that defendant Tri-Star place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant Tri-Star furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

121. Defendant Tri-Star, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

122. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 52

123. On December 10, 2000, at or about 8:04 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant TTI. The telephone

number identified as the source of the telephone solicitation was 713-910-5448. This telephone number is an internal telephone number of the defendant TTI. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant TTI, nor did Plaintiff have a prior relationship with the business represented by Defendant, Direct TV, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

124. The actions of the Defendant TTI described in this Count were done willfully or knowingly.

#### COUNT 53

125. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

126. The actions of the Defendant TTI described in this Count were done willfully or knowingly.

#### COUNT 54

127. Plaintiff requested that defendant TTI place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant TTI furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

128. Defendant TTI, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not

Call” list. Thus, Defendant TTI has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

129. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 55

130. On December 28, 2000, at or about 2:19 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant All American Alarms, Inc. (hereinafter called “AAA”). The telephone number identified as the source of the telephone solicitation was 281-442-1939. This telephone number is an internal telephone number of the defendant AAA. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant AAA, nor did Plaintiff have a prior relationship with the business represented by Defendant Direct TV, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff’s residential telephone line.

131. The actions of the Defendant AAA described in this Count were done willfully or knowingly.

#### COUNT 56

132. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

133. The actions of the Defendant AAA described in this Count were done willfully or knowingly.

#### COUNT 57

134. Plaintiff requested that defendant AAA place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant AAA furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

135. Defendant AAA, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant AAA policy on maintaining a "Do Not Call" list. Thus, Defendant AAA has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

136. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 58

137. On February 23, 2001, at or about 6:30 o'clock p.m., plaintiff received a telephone solicitation initiated by Defendant TTI. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant TTI, nor did Plaintiff have a prior relationship with the business represented by Defendant TTI, DIRECTV and ECHOSTAR, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

138. The actions of the Defendant TTI described in this Count were done willfully or knowingly.

#### COUNT 59

139. The telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone

solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

140. The actions of the Defendant TTI described in this Count were done willfully or knowingly.

#### COUNT 60

141. Plaintiff requested that defendant TTI place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant TTI furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

142. Defendant TTI, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant TTI has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

143. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 61

144. On March 1, 2001, at or about 2:02 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant TTI. The telephone number identified as the source of the telephone solicitation was 713-910-5759. This telephone number is an internal telephone number of the defendant TTI. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant TTI , nor did Plaintiff have a prior relationship with the business represented by Defendant TTI, DIRECTV and ECHOSTAR, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

145. The actions of the Defendant TTI described in this Count were done willfully or knowingly.



#### COUNT 62

146. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

147. The actions of the Defendant TTI described in this Count were done willfully or knowingly.

#### COUNT 63

148. Plaintiff requested that defendant place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant TTI furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

149. Defendant TTI, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant TTI has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

150. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 64

151. On March 30, 2001, at or about 3:37 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant DISHTV. The telephone number identified as the source of the telephone solicitation was 281-590-6946. This telephone number is an internal telephone number of the defendant DISHTV. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce

Code. Plaintiff had no prior relationship with the Defendant DISHTV, nor did Plaintiff have a prior relationship with the business represented by Defendant DISHTV, ECHOSTAR, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

152. The actions of the Defendant DISHTV described in this Count were done willfully or knowingly.

#### COUNT 65

153. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

154. The actions of the Defendant DISHTV described in this Count were done willfully or knowingly.

#### COUNT 66

155. Plaintiff requested that defendant DISHTV place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant DISHTV furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

156. Defendant DISHTV, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant DISHTV has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

157. The actions of the defendant described in this Count were done knowingly or willfully.

COUNT 67

158. On May 26, 2001, at or about 10:38 o'clock a.m., plaintiff received a telephone solicitation initiated by Defendant STARSAT. The telephone number identified as the source of the telephone solicitation was 281-272-6700. This telephone number is an internal telephone number of the defendant STARSAT. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant STARSAT, nor did Plaintiff have a prior relationship with the business represented by Defendant STARSAT, ECHOSTAR, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

159. The actions of the Defendant STARSAT described in this Count were done willfully or knowingly.

COUNT 68

160. The telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

161. The actions of the Defendant STARSAT described in this Count were done willfully or knowingly.

COUNT 69

162. Plaintiff requested that defendant STARSAT place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant STARSAT furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

163. Defendant STARSAT, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant STARSAT has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

164. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 70

165. On June 21, 2001, at or about 7:17 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant STARSAT. The telephone number identified as the source of the telephone solicitation was 832-554-0803. This telephone number is an internal telephone number of the defendant STARSAT. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant STARSAT, nor did Plaintiff have a prior relationship with the business represented by Defendant STARSAT, ECHOSTAR, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

166. The actions of the Defendant STARSAT described in this Count were done willfully or knowingly.

#### COUNT 71

167. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

168. The actions of the Defendant STARSAT described in this Count were done willfully or knowingly.

#### COUNT 72

169. Plaintiff requested that defendant STARSAT place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant STARSAT furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

170. Defendant STARSAT, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant Starsat has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

171. The actions of the defendant described in this Count were done knowingly or willfully.

#### COUNT 73

172. On June 22, 2001, at or about 4:05 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant STARSAT. The telephone number identified as the source of the telephone solicitation was 832-554-0804. This telephone number is an internal telephone number of the defendant STARSAT. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant STARSAT, nor did Plaintiff have a prior relationship with the business represented by Defendant, ECHOSTAR, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

173. The actions of the Defendant STARSAT described in this Count were done willfully or knowingly.

COUNT 74

174. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

175. The actions of the Defendant STARSAT described in this Count were done willfully or knowingly.

COUNT 75

176. Plaintiff requested that defendant STARSAT place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant STARSAT furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

177. Defendant STARSAT, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant STARSAT has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

178. The actions of the defendant described in this Count were done knowingly or willfully.

COUNT 76

179. On June 26, 2001, at or about 1:56 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant STARSAT. The telephone number identified as the source of the telephone solicitation was 832-554-0804. This telephone number is an internal telephone number of the defendant STARSAT. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce

Code. Plaintiff had no prior relationship with the Defendant STARSAT, nor did Plaintiff have a prior relationship with the business represented by Defendant STARSAT, ECHOSTAR, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

180. The actions of the Defendant STARSAT described in this Count were done willfully or knowingly.

#### COUNT 77

181. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

182. The actions of the Defendant STARSAT described in this Count were done willfully or knowingly.

#### COUNT 78

183. Plaintiff requested that defendant STARSAT place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant STARSAT furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

184. Defendant STARSAT, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant STARSAT has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

185. The actions of the defendant described in this Count were done knowingly or willfully.

COUNT 79

186. On July 19, 2001, at or about 6:57 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant STARSAT. The telephone number identified as the source of the telephone solicitation was 281-272-6700. This telephone number is an internal telephone number of the defendant STARSAT. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant STARSAT, nor did Plaintiff have a prior relationship with the business represented by Defendant STARSAT, ECHOSTAR, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

187. The actions of the Defendant STARSAT described in this Count were done willfully or knowingly.

COUNT 80

188. The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and §35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

189. The actions of the Defendant STARSAT described in this Count were done willfully or knowingly.

COUNT 81

190. Plaintiff requested that defendant place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded that defendant STARSAT furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.



191. Defendant STARSAT, however, intentionally failed to comply with Plaintiff's requests by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant STARSAT has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

192. The actions of the defendant described in this Count were done knowingly or willfully.

#### **APPLICABLE TO ALL ABOVE COUNTS**

193. Pursuant to 47 U.S.C. §227(b) and Section 35.47(g) of the Texas Business and Commerce Code Plaintiff is entitled to bring this private cause of action against Defendants for violations of the TCPA, the federal regulations enacted pursuant thereto, and §35.47(g) of the Texas Business and Commerce Code.

194. Pursuant to 47 U.S.C. §227(B)(3) and §35.47(g) of the Texas Business and Commerce Code Plaintiff has incurred actual monetary losses from such violation including but not limited to attorney's fees. Plaintiff hereby seeks judgment of and from the Defendants, jointly and severally, for the greater of \$500 for each violation or Plaintiff's actual monetary losses, including but not limited to attorney's fees, a sum which Plaintiff alleges to be within the jurisdictional limits of this Court.

195. In addition, Plaintiff alleges that all or some of the violations of the TCPA and the Texas Business and Commerce Code committed by the Defendants were done willfully or knowingly. Plaintiff thus seeks additional damages in an amount determined by the Court equal to not more than three (3) times the amount found by the Court in accordance with Paragraph 194 hereof.

196. In addition, Plaintiff alleges that the Defendants DirecTV and Echostar are common carriers and thus Plaintiff is entitled to recover his attorney's fees in an amount which Plaintiff alleges is in excess of the minimum jurisdictional limits of this Court.

197. Furthermore, pursuant to 47 C.F.R. 64.1200(e)(2)(iii) and Section 35.47(g) of the Texas Business and Commerce Code Defendants DIRECTV and Echostar are jointly and severally liable for the actions of Defendants KENNITH DALE HENSLEY AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS OF TEXAS; JIMMY RAY LETULLE, KENNITH DALE HENSLEY, AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS TEXAS TELEMARKETING, INC.; DIGITECH DSS; DISH TV, INC.; ALL AMERICAN ALARMS, INC.; SOUTHWEST DISH, INC.; NEW AGE SATELLITE AND SECURITY COMPANY; TRI-STAR MARKETING NETWORK; and STAR-SAT OF HOUSTON, INC.; NEW AGE SATELLITE AND SECURITY COMPANY; RICHARD ORTIZ AND MICHAEL PATRICK SULLIVAN, INDIVIDUALLY AND D/B/A TRI-STAR MARKETING NETWORK AND D/B/A NBE MARKETING; AND STAR-SAT.

COUNT 82

198. In addition, plaintiff and other members of the public face irreparable and irreparable harm and damage if the said defendants, KENNITH DALE HENSLEY AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS OF TEXAS; JIMMY RAY LETULLE, KENNITH DALE HENSLEY, AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS; TEXAS TELEMARKETING, INC.; DIGITECH DSS; DISH TV, INC.; ALL AMERICAN ALARMS, INC.; SOUTHWEST DISH, INC.; NEW AGE SATELLITE AND SECURITY COMPANY; STAR-SAT OF HOUSTON, INC.; DIRECTV, INC.; RICHARD ORTIZ and MICHAEL PATRICK SULLIVAN, INDIVIDUALLY AND D/B/A NBE MARKETING and D/B/A TRI-STAR MARKETING NETWORK AND ECHOSTAR SATELLITE CORPORATION, attorneys, trustees, or employees continue to make telephone calls in violation of the Telephone Consumer Protection Act by:

- a. making more than one telephone call to members of the public within a 12-month period on behalf of any seller of goods or services;

- b. initiating a telephone call to a residential telephone of members of the public using an artificial or prerecorded voice to deliver a message;
- c. initiating pre-recorded telephone calls to members of the public which include the transmission of an unsolicited advertisement;
- d. making pre-recorded calls to members of the public with whom KENNITH DALE HENSLEY AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS OF TEXAS; JIMMY RAY LETULLE, KENNITH DALE HENSLEY, AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS; TEXAS TELEMARKETING, INC.; DIGITECH DSS; DISH TV, INC.; ALL AMERICAN ALARMS, INC.; SOUTHWEST DISH, INC.; NEW AGE SATELLITE AND SECURITY COMPANY; RICHARD ORTIZ and MICHAEL PATRICK SULLIVAN, INDIVIDUALLY AND D/B/A NBE MARKETING and D/B/A TRI-STAR MARKETING NETWORK STAR-SAT OF HOUSTON, INC.; DIRECTV, INC. OR ECHOSTAR SATELLITE CORPORATION has no established business relationship;
- e. failing to clearly state at the beginning of the message in telephone calls which it initiates its identity;
- f. failing to clearly state at the beginning of the message in telephone calls which it initiates the identity of the individual making the call;
- g. failing to clearly state, at the beginning of the message in telephone calls which it initiates the identity of the entity which it represents;
- h. failing to clearly state during or after the message in telephone calls it initiates its telephone number;
- i. failing to clearly state during or after the message in telephone calls it initiates its address;
- j. failing to clearly state during or after the message in telephone calls it initiates the telephone number of the individual making the call;
- k. failing to clearly state during or after the message in telephone calls it initiates the address of the individual making the call;
- l. failing to clearly state during or after the message in telephone calls it initiates the telephone number of the entity which it represents;
- m. failing to clearly state during or after the message in telephone calls it initiates the address of the entity which it represents;
- n. failing to have a written policy available upon demand for maintaining a "do not call" list;
- o. failing to provide copies of its written "do not call" policy upon demand;
- p. failing to inform its personnel engaged in telephone solicitation of the existence and use of its "do not call" list;

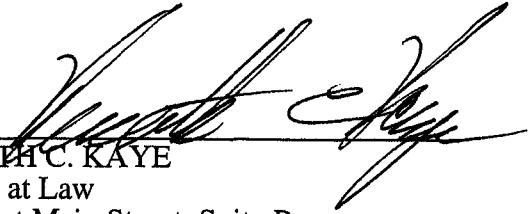
- q. failing to train its personnel engaged in telephone solicitation in the use of the "do not call" list;
- r. failing to record the requests made by members of the public not to receive calls from it;
- s. failing to record at the time a member of the public makes a request, the request not to receive calls from it;
- t. failing to provide members of the public with the telephone number at which it could be contacted;
- u. failing to provide members of the public with the address at which it could be contacted; and
- v. failing to maintain records of members of the public who request not to receive future telephone solicitations.

Plaintiff respectfully moves that this Honorable Court, upon notice and hearing, grant a temporary injunction and, upon final trial hereof, a permanent injunction enjoining and restraining the said defendants KENNITH DALE HENSLEY AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS OF TEXAS; JIMMY RAY LETULLE, KENNITH DALE HENSLEY, AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS; TEXAS TELEMARKETING, INC.; DIGITECH DSS; DISH TV, INC.; ALL AMERICAN ALARMS, INC.; SOUTHWEST DISH, INC.; NEW AGE SATELLITE AND SECURITY COMPANY; RICHARD ORTIZ and MICHAEL PATRICK SULLIVAN, INDIVIDUALLY AND D/B/A NBE MARKETING and D/B/A TRI-STAR MARKETING NETWORK; STAR-SAT OF HOUSTON, INC.; DIRECTV, INC.; AND ECHOSTAR SATELLITE CORPORATION, their agents, attorneys, trustees, and employees, from making telephone calls in violation of the Telephone Consumer Protection Act.

COUNT 83

199. In accordance with Section 206 of Title 47 of the United States Code, Plaintiff is entitled to recover a reasonable amount as attorney's fees. The undersigned attorney has been retained to represent Plaintiff and has been assigned the reasonable attorney's fees to which Plaintiff is entitled, all of which Plaintiff alleges to be a sum in excess of the minimum jurisdictional limits of this Court.

WHEREFORE, premises considered, Plaintiff prays that Defendants be cited to appear and answer herein, that this Court issue its Temporary Injunction enjoining the said Defendants KENNITH DALE HENSLEY AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS OF TEXAS; JIMMY RAY LETULLE, KENNITH DALE HENSLEY, AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS; TEXAS TELEMARKETING, INC.; DIGITECH DSS; DISH TV, INC.; ALL AMERICAN ALARMS, INC.; SOUTHWEST DISH, INC.; NEW AGE SATELLITE AND SECURITY COMPANY; RICHARD ORTIZ and MICHAEL PATRICK SULLIVAN, INDIVIDUALLY AND D/B/A NBE MARKETING and D/B/A TRI-STAR MARKETING NETWORK; STAR-SAT OF HOUSTON, INC.; DIRECTV, INC.; AND ECHOSTAR SATELLITE CORPORATION, in accordance with Count 82 above and that upon final trial hereof, this Court issue its permanent injunction enjoining said Defendants, KENNITH DALE HENSLEY AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS OF TEXAS; JIMMY RAY LETULLE, KENNITH DALE HENSLEY, AND RICHARD DEAN JONES, INDIVIDUALLY AND D/B/A ALL STAR COMMUNICATIONS; TEXAS TELEMARKETING, INC.; DIGITECH DSS; DISH TV, INC.; ALL AMERICAN ALARMS, INC.; SOUTHWEST DISH, INC.; NEW AGE SATELLITE AND SECURITY COMPANY; RICHARD ORTIZ and MICHAEL PATRICK SULLIVAN, INDIVIDUALLY AND D/B/A NBE MARKETING and D/B/A TRI-STAR MARKETING NETWORK; STAR-SAT OF HOUSTON, INC.; DIRECTV, INC.; AND ECHOSTAR SATELLITE CORPORATION, in accordance with Count 82 above; and that upon final trial hereof, Plaintiff recover a judgment of and from the Defendants, jointly and severally, for his damages as allowed by law, additional damages, attorney's fees, interest, costs of court, and for all such other and further relief, at law and in equity, to which Plaintiff may show himself justly entitled.

  
KENNETH C. KAYE  
Attorney at Law  
1101 West Main Street, Suite P  
League City, Texas 77573  
(281) 332-3508  
FAX NO. (281) 332-4526  
BAR NO. 11124000  
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I do hereby certify that in compliance with the provisions of Rules 21 and 21a of the Texas Rules of Civil Procedure on this the 21<sup>st</sup> day of December, 2001, a true and correct copy of the above and foregoing PLAINTIFF'S SECOND AMENDED ORIGINAL PETITION was mailed by certified United States Mail, return receipt requested, to the below listed persons, and that postage thereon was paid. Notice was further given that the original of this document was being filed with the Clerk of this Court.

Jeffrey D. Meyer  
1001 McKinney, 18th Floor  
Houston, Texas 77002

David L. Froneberger  
Larry Wilson  
444 W. Pasadena Blvd., Suite B  
Deer Park, Texas 77536

Jahn Eric Humphreys  
Humphreys & Humphreys  
3144 NASA Road 1  
Seabrook, Texas 77586

Juanita Barner  
2512 Southmore, Suite A  
Houston, Texas 77004

T. Wade Welch  
Ross W. Wooten  
2401 Fountainview, Suite 215  
Houston, Texas 77057

  
KENNETH C. KAYE

P-6  
TINJX  
GC

NO. 2001-32094

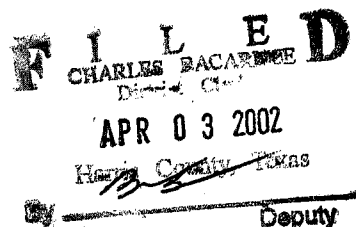
JOE SHIELDS

VS.

KENNITH DALE HENSLEY AND  
RICHARD DEAN JONES, INDIVIDUALLY  
AND D/B/A ALL STAR COMMUNICATIONS  
OF TEXAS; JIMMY RAY LETULLE,  
KENNITH DALE HENSLEY, AND  
RICHARD DEAN JONES, INDIVIDUALLY  
AND D/B/A ALL STAR COMMUNICATIONS;  
TEXAS TELEMARKETING, INC.;  
VERONICA LEE GARAY AND JOE ANTHONY  
FERNANDEZ, INDIVIDUALLY AND D/B/A  
DIGITECH DSS; DISH TV, INC.; ALL  
AMERICAN ALARMS, INC.;  
SOUTHWEST DISH, INC.; NEW AGE  
SATELLITE AND SECURITY COMPANY;  
RICHARD ORTIZ and MICHAEL PATRICK  
SULLIVAN, INDIVIDUALLY AND D/B/A  
NBE MARKETING and D/B/A TRI-STAR  
MARKETING NETWORK; STAR-SAT OF  
HOUSTON, INC.; DIRECTV, INC.,  
AND ECHOSTAR TECHNOLOGIES  
CORPORATION D/B/A ECHOSTAR

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS



280th JUDICIAL DISTRICT

**AGREED PERMANENT INJUNCTION**

This cause was set for trial on March 4, 2002. Prior to that date, some of the parties, to-wit Joe Shields; Kennith Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; and Jimmy Ray Letulle, Kennith Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communications, announced that they had resolved their disputes.

The parties announced that: Kennith Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kennith Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communications; and their agents, attorneys, trustees, and employees should be permanently enjoined and ordered to desist from making telephone calls in violation of the Telephone Consumer Protection Act by:

- a. making more than one telephone call to members of the public within a 12-month period on behalf of any seller of goods or services;

page 1 of 6

**RECORDER'S MEMORANDUM**  
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present at the time of imaging

IMAGED

- b. initiating a telephone call to a residential telephone of members of the public using an artificial or prerecorded voice to deliver a message;
- c. initiating telephone calls to members of the public which include the transmission of an unsolicited advertisement;
- d. making calls to members of the public with whom Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communications; or any of them have no established business relationship;
- e. failing to clearly state at the beginning of the message in telephone calls which Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the caller's identity;
- f. failing to clearly state at the beginning of the message in telephone calls which Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the identity of the individual making the call;
- g. failing to clearly state, at the beginning of the message in telephone calls which Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the identity of the entity which the caller represents;
- h. failing to clearly state during or after the message in telephone calls Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the caller's telephone number;
- i. failing to clearly state during or after the message in telephone calls Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the caller's address;
- j. failing to clearly state during or at the end of the message in telephone calls Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the telephone number of the individual making the call;
- k. failing to clearly state during or at the end of the message in telephone calls Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the address of the individual making the call;



- l. failing to clearly state during or after the message in telephone calls Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the telephone number of the entity which the caller represents;
- m. failing to clearly state during or after the message in telephone calls Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the address of the entity which the caller represents;
- n. failing to have a written policy available upon demand for maintaining a "do not call" list;
- o. failing to provide copies of its written "do not call" policy upon demand;
- p. failing to inform the caller's personnel engaged in telephone solicitation of the existence and use of the "do not call" list;
- q. failing to train the caller's personnel engaged in telephone solicitation in the use of the "do not call" list;
- r. failing to record the requests made by members of the public not to receive calls from the caller;
- s. failing to record, at the time a member of the public makes a request, the request not to receive calls from the caller;
- t. failing to provide members of the public with the telephone number at which the caller can be contacted;
- u. failing to provide members of the public with the address at which the caller can be contacted; and
- v. failing to maintain records of members of the public who request not to receive future telephone solicitations.

It is, therefore, ORDERED, ADJUDGED and DECREED that, Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; and their agents, attorneys, trustees, and employees be, and they hereby are permanently enjoined and are further ordered to desist from making telephone calls in violation of the Telephone Consumer Protection Act and more specifically are hereby permanently enjoined from:

- a. making more than one telephone call to members of the public within a 12-month period on behalf of any seller of goods or services;
- b. initiating a telephone call to a residential telephone of members of the public using an artificial or prerecorded voice to deliver a message;
- c. initiating telephone calls to members of the public which include the transmission of an unsolicited advertisement;
- d. making calls to members of the public with whom Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them have no established business relationship;
- e. failing to clearly state at the beginning of the message in telephone calls which Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the caller's identity;
- f. failing to clearly state at the beginning of the message in telephone calls which Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the identity of the individual making the call;
- g. failing to clearly state, at the beginning of the message in telephone calls which Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the identity of the entity which the caller represents;
- h. failing to clearly state during or after the message in telephone calls Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the caller's telephone number;
- i. failing to clearly state during or after the message in telephone calls Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the caller's address;
- j. failing to clearly state during or at the end of the message in telephone calls Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the telephone number of the individual making the call;
- k. failing to clearly state during or at the end of the message in telephone calls Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and

Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the address of the individual making the call;

- l. failing to clearly state during or after the message in telephone calls Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the telephone number of the entity which the caller represents;
- m. failing to clearly state during or after the message in telephone calls Kenneth Dale Hensley and Richard Dean Jones, Individually and d/b/a All Star Communications of Texas; Jimmy Ray Letulle, Kenneth Dale Hensley, and Richard Dean Jones, Individually and d/b/a All Star Communication; or any of them initiate the address of the entity which the caller represents;
- n. failing to have a written policy available upon demand for maintaining a "do not call" list;
- o. failing to provide copies of its written "do not call" policy upon demand;
- p. failing to inform the caller's personnel engaged in telephone solicitation of the existence and use of the "do not call" list;
- q. failing to train the caller's personnel engaged in telephone solicitation in the use of the "do not call" list;
- r. failing to record the requests made by members of the public not to receive calls from the caller;
- s. failing to record, at the time a member of the public makes a request, the request not to receive calls from the caller;
- t. failing to provide members of the public with the telephone number at which the caller can be contacted;
- u. failing to provide members of the public with the address at which the caller can be contacted; and
- v. failing to maintain records of members of the public who request not to receive

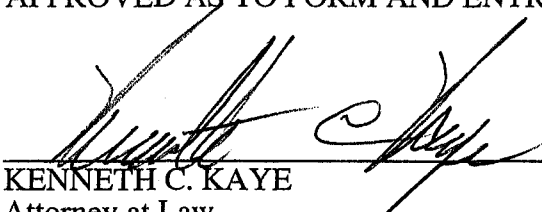
future telephone solicitations.

**All other relief requested by Plaintiff JOE SHIELDS against the Defendants**  
~~Signed this~~ 3rd day of April, ~~2002~~ 2002 listed in the first  
**paragraph of this order is DENIED.** This order is complete as to the Defendants  
that are the subject of this order. This order is interlocutory at this time  
only because other parties remain undisposed. Otherwise, this is a final  
order as to the Defendants named in this order.

SIGNED this 3rd day of April 2002.

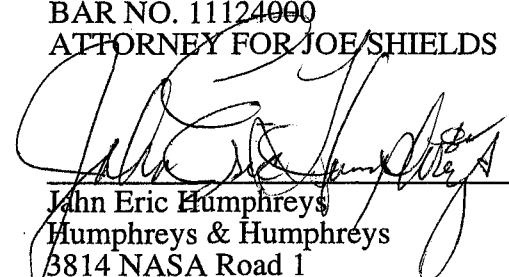
  
TONY LINDSAY  
Judge Presiding

APPROVED AS TO FORM AND ENTRY REQUESTED:



---

KENNETH C. KAYE  
Attorney at Law  
1101 West Main Street, Suite P  
League City, Texas 77573  
(281) 332-3508  
FAX NO. (281) 332-4526  
BAR NO. 11124000  
ATTORNEY FOR JOE SHIELDS



---

John Eric Humphreys  
Humphreys & Humphreys  
3814 NASA Road 1  
Seabrook, Texas 77586  
(281) 535-0123  
FAX NO. (281) 535-0090  
BAR NO. 00784309  
ATTORNEY FOR DEFENDANTS

Pl  
6c

NO. 2001-32094

JOE SHIELDS,

Plaintiff,

v.

KENNITH DALE HENSLEY, et al.,

Defendants.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

280TH JUDICIAL DISTRICT

**AGREED PERMANENT INJUNCTION AS TO CERTAIN DEFENDANTS**

On May 31, 2002, Plaintiff Joe Shields and certain Defendants resolved this litigation during mediation and executed a Settlement Agreement. As part of the Settlement Agreement Defendants Dish TV; All American Alarms, Inc.; Starsat of Houston, Inc.; and New Age Satellite & Security, Inc. (collectively, the "Agreeing Parties") agreed to the terms of this Permanent Injunction. The Agreeing Parties, for each of themselves respectively, as well as their respective agents, attorneys, trustees, and employees, agree to the Court entering an Order permanently enjoining each of them respectively from violating the Telephone Consumer Protection Act by:

1. Initiating a telephone call to a residential telephone of members of the public using an artificial or prerecorded voice to deliver a message without prior express consent of or a prior business relationship with the called party;
2. Making calls to members of the public with whom the Agreeing Party has no established business relationship;
3. Failing to clearly state the caller's identity at the beginning of the message in telephone calls which the Agreeing Party initiates;

**F I L E D**  
**CHARLES BACARISSE**  
District Clerk

**JUL 11 2002**

Harris County, Texas

By \_\_\_\_\_

Deputy

**RECORDER'S MEMORANDUM**  
This instrument is of poor quality  
and not satisfactory for photographic  
recording: and/or alterations were  
present at the time of imaging

IMAGED

4. Failing to clearly state the identity of the individual making the call at the beginning of the message in telephone calls which the Agreeing Party initiates;
5. Failing to clearly state the identity of the entity which the caller represents at the beginning of the message in telephone calls which the Agreeing Party initiates;
6. Failing to clearly state the caller's telephone number during or after the message in telephone calls which the Agreeing Party initiates;
7. Failing to clearly state the caller's address during or after the message in telephone calls which the Agreeing Party initiates;
8. Failing to clearly state the telephone number of the individual making the call during or at the end of the message in telephone calls which the Agreeing Party initiates;
9. Failing to clearly state the address of the individual making the call during or at the end of the message in telephone calls which the Agreeing Party initiates;
10. Failing to clearly state the telephone number of the entity which the caller represents during or after the message in telephone calls which the Agreeing Party initiates;
11. Failing to clearly state the address of the entity which the caller represents during or after the message in telephone calls which the Agreeing Party initiates;
12. Failing to have a written policy for maintaining a "do not call" list available upon demand;
13. Failing to provide copies of its written "do not call" policy upon demand;
14. Failing to inform a caller's personnel engaged in telephone solicitation of the existence and use of the "do not call" list;

15. Failing to train the caller's personnel engaged in telephone solicitation in the use of the "do not call" list;
16. Failing to record the requests made by members of the public not to receive calls from the caller;
17. Failing to record, at the time a member of the public makes a request, the request not to receive calls from the caller;
18. Failing to provide members of the public with the telephone number at which the caller can be contacted;
19. Failing to provide members of the public with the address at which the caller can be contacted; and
20. Failing to maintain records of members of the public who request not to receive future telephone solicitations.

It is therefore, ORDERED, ADJUDGED and DECREED that the Agreeing Parties, for each of them respectively, as well as their respective agents, attorneys, trustees, and employees, are hereby permanently enjoined from committing the acts specified in number 1-20 above and are further ordered to desist from making telephone calls in violation of the Telephone Consumer Protection Act.

All other relief requested by Plaintiff against the Defendants listed in the first paragraph of this Order is DENIED. This Order is complete as to the Defendants that are the subject of this Order. This Order is interlocutory at this time only because other parties remain undisposed. Otherwise this is a final order as to the Defendants named in this Order.

*Signed July 3, 2002.*

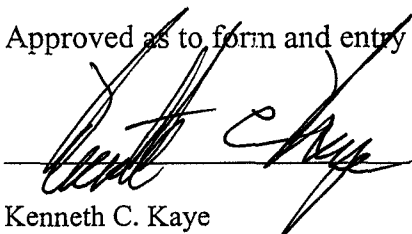
*Tony Lindsay*  
*Judge Presiding*

Signed this \_\_\_\_\_ day of June, 2002.

\_\_\_\_\_  
TONY LINDSAY

Judge Presiding

Approved as to form and entry requested:

  
\_\_\_\_\_  
Kenneth C. Kaye  
Law Offices of Kenneth C. Kaye  
1101 West Main Street, Suite P.  
League City, Texas 77573  
(281) 332-3508  
(281) 332-4526 (fax)

**On behalf of, and as counsel for, Plaintiff Joe Shields**

\_\_\_\_\_  
David L. Froneberger  
Larry Wilson  
444 W. Pasadena Blvd., Suite B  
Deer Park, Texas 77536  
(281) 542-7500  
(281) 542-7390 (fax)

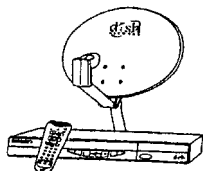
**On behalf of, and as counsel for, Defendants Star-Sat of Houston, Inc. and All American Alarms, Inc.**

  
\_\_\_\_\_  
Juanita Barner

Juanita Barner  
2512 Southmore, Suite A  
Houston, Texas 77004  
(713) 942-9430  
(713) 942-0591 (fax)

**On behalf of, and as counsel for, Defendants DISH TV, Inc. and New Age Security & Satellite, Inc.**





# STARSAT OF HOUSTON, INC.

1708 Center St.  
Deer Park, Texas, 77536  
281-479-3771 or 877-WE-R-DISH  
Fax: 281-479-3789

June 22, 2002

Public Utility Commission of Texas  
P. O. Box 13326  
Austin, Texas 78711

Attn: Central Records

Re: ADAD Permit Renewal


To whom it may concern,

This letter is to inform Texas PUC that we will no longer have need of our permit. We have shut down our ADAD Machine and all telephone lines connected to it.

It has come to our attention that the laws governing telemarketing are ambiguous at best. The Texas No Call List" is not as effective as we had hoped because the consumer who refuses to sign up for the "Texas No Call List" can still pursue frivolous lawsuits and it is just not worth pursuing telemarketing any further.

We do understand the laws were made to protect the consumer and do agree with them, but there are no laws to protect the merchant from the consumer with ideas of creating additional income with these frivolous lawsuits.

Respectfully,

  
Sabrena Lewis  
Office Manager

02 JUL 27 09:10:42  
FILING UNIT

**Brett A. Perlman**  
Commissioner

**Rebecca Klein**  
Commissioner

**W. Lane Lanford**  
Executive Director



## *Public Utility Commission of Texas*

**Project No. 24722**

**Automatic Dial Announcing Device (ADAD) Permit Renewal Form**  
**Renewal fee is \$100; make check to Public Utility Commission of Texas**

ADAD Permit Number 000355

ADAD Permit expiration date 11-17-02

**Mail check and signed, completed form and three copies of the signed, completed form to Central Records to:**

Public Utility Commission of Texas  
Attn: Central Records  
P. O. Box 13326  
1701 N. Congress  
Austin, TX 78711-3326

**Failure to fully complete form could delay processing. A check mailed without four (4) completed forms or forms mailed without the check will be returned. Average processing time is two months.**

1. Name and/or dba under which this permit is held.

2. Mailing address, phone, fax, and email.

Phone:  
Fax:  
Email:  
Mailing address:

3. Person to contact with questions about this permit renewal.

Name:  
Phone:  
Fax:  
Email:

4. List all dbas under which the owner/operator does business. Attach additional sheets if necessary.

5. Sign and date in box below

By my signature and the date signed, I affirm all requested information provided is correct:

Questions: contact Betsy Tyson, phone 512-936-7323 or email [betsy.tyson@puc.state.tx.us](mailto:betsy.tyson@puc.state.tx.us) or Susan Longenecker, phone 512-936-7405 or [susan.longenecker@puc.state.tx.us](mailto:susan.longenecker@puc.state.tx.us)

**Note:** This form could be revised. You are advised to monitor the PUC web site for any changes in the ADAD permit renewal form and the ADAD permit renewal process.



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An Equal Opportunity Employer

JOE SHIELDS

VS.

KENNITH DALE HENSLEY AND  
RICHARD DEAN JONES, INDIVIDUALLY  
AND D/B/A ALL STAR COMMUNICATIONS  
OF TEXAS; JIMMY RAY LETULLE,  
KENNITH DALE HENSLEY, AND  
RICHARD DEAN JONES, INDIVIDUALLY  
AND D/B/A ALL STAR COMMUNICATIONS;  
TEXAS TELEMARKETING, INC.;  
VERONICA LEE GARAY AND JOE ANTHONY  
FERNANDEZ, INDIVIDUALLY AND D/B/A  
DIGITECH DSS; DISH TV, INC.; ALL  
AMERICAN ALARMS, INC.;  
SOUTHWEST DISH, INC.; NEW AGE  
SATELLITE AND SECURITY COMPANY;  
RICHARD ORTIZ and MICHAEL PATRICK  
SULLIVAN, INDIVIDUALLY AND D/B/A  
NBE MARKETING and D/B/A TRI-STAR  
MARKETING NETWORK; STAR-SAT OF  
HOUSTON, INC.; DIRECTV, INC.,  
AND ECHOSTAR TECHNOLOGIES  
CORPORATION D/B/A ECHOSTAR

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

280th JUDICIAL DISTRICT

### DEFAULT JUDGMENT

This day being after the appearance day of the defendants in the above entitled and numbered cause, wherein Joe Shields is the plaintiff and Texas Telemarketing, Inc.; Veronica Lee Garay and Joe Anthony Fernandez, Individually and d/b/a Digitech DSS; and Southwest Dish, Inc. are the defendants and the Court has determined that proper citation has been issued and served upon the said defendants for the time and in the manner required by law and that the same have been on file herein for more than ten (10) days prior to the date hereof. The Court finds further that all pre-requisites of the law invoking the jurisdiction and venue of this cause and of the defendants have been in all things complied with.

Said cause being regularly called in its order on the docket, came the plaintiff, Joe Shields, in person and by his attorney, but the defendants, as at all times ~~here to for~~ <sup>here to fore</sup> failed to ~~or~~ appear ~~for~~ answer in this behalf, but wholly made default. All questions of law as well as of fact

were submitted to the Court. The Court having read the pleadings and having heard the evidence thereon, is of the opinion that plaintiff is entitled to recover his damages by reason of the premises against the said defendants, who are in default.

More specifically, the Court finds that Texas Telemarketing, Inc. violated the Telephone Consumer Protection Act by making five (5) prerecorded telephone calls to plaintiff's residence although it had no prior business relationship with the plaintiff nor was there any express consent by the plaintiff to receive such calls; by not providing the name of the caller in any of such calls; by not providing the telephone number or the address of the entity or person initiating the telephone solicitations or the business represented by Texas Telemarketing, Inc.; by not placing plaintiff's telephone numbers on its do not call list; and by not furnishing a copy of its do not call policy to plaintiff although he specifically requested such a document.

More specifically, the Court finds that Veronica Lee Garay and Joe Anthony Fernandez d/b/a Digitech DSS violated the Telephone Consumer Protection Act by making one (1) prerecorded telephone call to plaintiff's residence although they had no prior business relationship with the plaintiff nor was there any express consent by the plaintiff to receive such call; by not providing the name of the caller in such call; by not providing the telephone number or the address of the entity or person initiating the telephone solicitation or the business represented by Veronica Lee Garay and Joe Anthony Fernandez d/b/a Digitech DSS; by not placing plaintiff's telephone numbers on their do not call list; and by not furnishing a copy of their do not call policy to plaintiff although he specifically requested such a document.

More specifically, the Court finds that Southwest Dish, Inc. violated the Telephone Consumer Protection Act by making one (1) prerecorded telephone call to plaintiff's residence although it had no prior business relationship with the plaintiff nor was there any express consent by the plaintiff to receive such call; by not providing the name of the caller in such call; by not providing the telephone number or the address of the entity or person initiating the telephone solicitation or the business represented by Southwest Dish, Inc.; by not placing plaintiff's

telephone numbers on its do not call list; and by not furnishing a copy of its do not call policy to plaintiff although he specifically requested such a document.

The Court finds it to be a fact that Texas Telemarketing, Inc. is justly indebted to Joe Shields in the sum of thirty thousand dollars (\$30,000.00) in statutory damages and sixty thousand dollars (\$60,000.00) in additional damages.

The Court finds it to be a fact that Veronica Lee Garay and Joe Anthony Fernandez, Individually and d/b/a Digitech DSS is justly indebted to Joe Shields in the sum of Five thousand dollars (\$5,000.00) in statutory damages and Ten thousand dollars (\$10,000.00) in additional damages.

The Court finds it to be a fact that Southwest Dish, Inc. is justly indebted to Joe Shields in the sum of Five thousand dollars (\$5,000.00) in statutory damages and Ten thousand dollars (\$10,000.00) in additional damages.

It is, THEREFORE, ORDERED, ADJUDGED and DECREED by the Court that Joe Shields, plaintiff, do have and recover of and from Texas Telemarketing, Inc. the sum of ninety thousand dollars (\$90,000.00) with interest thereon at the rate of ten percent (10%) per annum compounded annually from even date hereof until paid.

It is further ORDERED, ADJUDGED and DECREED by the Court that Joe Shields, plaintiff, do have and recover of and from Veronica Lee Garay and Joe Anthony Fernandez, Individually and d/b/a Digitech DSS, jointly and severally, the sum of Fifteen thousand dollars (\$15,000.00) with interest thereon from even date herewith at the rate of ten percent (10%) per annum compounded annually from even date hereof until paid.

It is further ORDERED, ADJUDGED and DECREED by the Court that Joe Shields, plaintiff, do have and recover of and from Southwest Dish, Inc. the sum of Fifteen thousand dollars (\$ 15,000.00), with interest thereon at the rate of ten percent (10%) per annum compounded annually from even date hereof until paid.

The Court further finds that Texas Telemarketing, Inc.; Veronica Lee Garay and Joe Anthony Fernandez, Individually and d/b/a Digitech DSS; and Southwest Dish, Inc., and their agents, attorneys, trustees, and employees should be permanently enjoined and ordered to desist from making telephone calls in violation of the Telephone Consumer Protection Act by:

- a. making more than one telephone call to members of the public within a 12-month period on behalf of any seller of goods or services;
- b. initiating a telephone call to a residential telephone of members of the public using an artificial or prerecorded voice to deliver a message;
- c. initiating pre-recorded telephone calls to members of the public which include the transmission of an unsolicited advertisement;
- d. making pre-recorded calls to members of the public with whom TEXAS TELEMARKETING, INC.; VERONICA LEE GARAY and JOE ANTHONY FERNANDEZ, INDIVIDUALLY and D/B/A DIGITECH DSS; and SOUTHWEST DISH, INC.; have no established business relationship;
- e. failing to clearly state at the beginning of the message in telephone calls which they initiate their identity;
- f. failing to clearly state at the beginning of the message in telephone calls which they initiate the identity of the individual making the call;
- g. failing to clearly state, at the beginning of the message in telephone calls which they initiate the identity of the entity which they represent;
- h. failing to clearly state during or after the message in telephone calls they initiate their telephone number;
- i. failing to clearly state during or after the message in telephone calls they initiate their address;
- j. failing to clearly state during or after the message in telephone calls they initiate the telephone number of the individual making the call;
- k. failing to clearly state during or after the message in telephone calls they initiate the address of the individual making the call;

- l. failing to clearly state during or after the message in telephone calls they initiate the telephone number of the entity which they represent;
- m. failing to clearly state during or after the message in telephone calls they initiate the address of the entity which they represent;
- n. failing to have a written policy available upon demand for maintaining a “do not call” list;
- o. failing to provide copies of their written “do not call” policy upon demand;
- p. failing to inform their personnel engaged in telephone solicitation of the existence and use of its “do not call” list;
- q. failing to train its personnel engaged in telephone solicitation in the use of the “do not call” list;
- r. failing to record the requests made by members of the public not to receive calls from them;
- s. failing to record at the time a member of the public makes a request, the request not to receive calls from them;
- t. failing to provide members of the public with the telephone number at which they could be contacted;
- u. failing to provide members of the public with the address at which they could be contacted; and
- v. failing to maintain records of members of the public who request not to receive future telephone solicitations.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that Texas

Telemarketing, Inc.; Veronica Lee Garay and Joe Anthony Fernandez, Individually and d/b/a Digitech DSS; and Southwest Dish, Inc.; and their agents, attorneys, trustees, and employees be and they hereby are permanently enjoined and further ordered to desist from making telephone calls in violation of the Telephone Consumer Protection Act and more specifically are hereby permanently enjoined from:

- a. making more than one telephone call to members of the public within a 12-month period on behalf of any seller of goods or services;
- b. initiating a telephone call to a residential telephone of members of the public using an artificial or prerecorded voice to deliver a message;
- c. initiating pre-recorded telephone calls to members of the public which include the transmission of an unsolicited advertisement;

- d. making pre-recorded calls to members of the public with whom ALL STAR COMMUNICATION; TEXAS TELEMARTETING, INC.; VERONICA LEE GARAY and JOE ANTHONY FERNANDEZ, INDIVIDUALLY and D/B/A DIGITECH DSS; and SOUTHWEST DISH, INC. have no established business relationship;
- e. failing to clearly state at the beginning of the message in telephone calls which they initiate their identity;
- f. failing to clearly state at the beginning of the message in telephone calls which they initiate the identity of the individual making the call;
- g. failing to clearly state, at the beginning of the message in telephone calls which they initiate the identity of the entity which they represent;
- h. failing to clearly state during or after the message in telephone calls they initiate their telephone number;
- i. failing to clearly state during or after the message in telephone calls they initiate their address;
- j. failing to clearly state during or after the message in telephone calls they initiate the telephone number of the individual making the call;
- k. failing to clearly state during or after the message in telephone calls they initiate the address of the individual making the call;
- l. failing to clearly state during or after the message in telephone calls they initiate the telephone number of the entity which they represent;
- m. failing to clearly state during or after the message in telephone calls they initiate the address of the entity which they represent;
- n. failing to have a written policy available upon demand for maintaining a "do not call" list;
- o. failing to provide copies of its written "do not call" policy upon demand;
- p. failing to inform their personnel engaged in telephone solicitation of the existence and use of its "do not-call" list;
- q. failing to train their personnel engaged in telephone solicitation in the use of the "do not call" list;
- r. failing to record the requests made by members of the public not to receive calls from them;
- s. failing to record at the time a member of the public makes a request, the request not to receive calls from them;
- t. failing to provide members of the public with the telephone number at which they could be contacted;



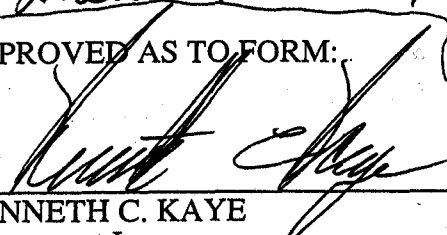
- u. failing to provide members of the public with the address at which they could be contacted; and
- v. failing to maintain records of members of the public who request not to receive.

All costs of court expended or incurred in this cause are hereby adjudged against Texas Telemarketing, Inc.; Veronica Lee Garay and Joe Anthony Fernandez, Individually and d/b/a Digitech DSS; and Southwest Dish, Inc., jointly and severally. All writs and processes for the enforcement and collection of this judgment and the costs of court may issue as necessary. All

other relief not expressly granted herein is denied. *Because this judgment is signed after the two dismissal orders*  
~~SIGNED this~~ day of, 2002.  
*signed today, this judgment finally disposes of all claims and all parties, and is*  
*appealable.*

*Signed September 3, 2002*

APPROVED AS TO FORM:

  
KENNETH C. KAYE  
Attorney at Law  
1101 West Main Street, Suite P  
League City, Texas 77573  
(281)332-3508  
FAX NO. (281)332-4526  
BAR NO. 11124000  
ATTORNEY FOR JOE SHIELDS

*9:00 A.M.*

*Tony Lindsay*  
*Judge Presiding*